

# **REAL ID Act Quarterly Report to the Legislature**

**June 30, 2008**

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## Preface

Pursuant to language contained within the Supplemental Report of the 2007 Budget Act, the REAL ID Quarterly Report is submitted for the quarter ending June 30, 2008:

“The department shall report quarterly beginning September 2007, to the Joint Legislative Budget Committee and the appropriate fiscal and policy committees of the Legislature on the status of the federal REAL ID Act. Specifically, the department shall report on the status of any federal legislation to amend or repeal the act, as well as federal regulations and funding for the program. The department shall also report on its major activities related to the REAL ID Act.”

The Department of Homeland Security (DHS) released the final REAL ID regulations on January 29, 2008. Subsequently, the DHS granted deadline extensions to all states. By extending the compliance date until January 1, 2010, states have additional time to satisfy minimum benchmark requirements of the REAL ID Act. Until then, the Department of Motor Vehicles (DMV) can use the same procedures for license issuance and renewals as it currently uses. This extension affords the Department the additional time necessary to perform impact assessments of the new requirements and make recommendations that are consistent with our objectives of providing the best licensing procedure for our California drivers.

In looking at the contrast between the earlier proposed regulations and the final REAL ID regulations, it is apparent that the DHS acknowledged and addressed a number of concerns that California and numerous other states and organizations had raised. However, a number of key concerns remain, including the lack of federal funding; the recertification of all California driver license/identification card holders; the non-existence of the required national electronic verification systems and perhaps most importantly, serious privacy and security concerns.

Even so, regardless of whether or not we implement REAL ID, the California DMV continues to implement best practices policies and procedures to better serve our customers. We continue to provide more and more services online so that many customers don't need to stand in line at a field office. We continue to incorporate the highest level of security and privacy features into our license issuance process and within the features of the driver license itself. In fact, assuring California drivers that their driver license meets the highest security standards and assuring them that their personal data is secure speaks directly to the intent of the REAL ID.

## **Federal Legislation**

### **ENACTED LEGISLATION**

#### **H.R.2764: Lowey (New York)**

This legislation proposes appropriations for the federal fiscal year that ends on September 30, 2008. The funds will be directed to the Department of State, foreign operations and associated programs and purposes. The bill also includes \$50 million in grant monies for the REAL ID Act of 2005.

#### Status

Introduced June 18, 2007, became Public Law No: 110-61.

### **PENDING LEGISLATION**

#### **S. 563: Collins (Maine)**

This bill amends the REAL ID Act of 2005 to extend the deadline by which state driver license/identification (DL/ID) cards must meet certain minimum federal standards for acceptance; and establishes when a state must meet certain minimum electronic verification standards before issuing DL/ID cards due to the non-availability of electronic systems to verify such documents.

If passed, the bill directs the Secretary of Homeland Security (Secretary) to reconvene the negotiated rulemaking committee established pursuant to the 9/11 Commission Implementation Act of 2004, with the addition of any new interested parties, to review the proposed regulations to implement the minimum requirements and the provisions of the REAL ID Act of 2005 and submit recommendations to the Secretary regarding appropriate modifications to such regulations and such Act.

#### Status

Introduced on February 13, 2007, read twice and referred to the Senate Committee on Homeland Security and Governmental Affairs. No other action to date.

#### **S. 717: Akaka (Hawaii)**

This legislation repeals Title II of the REAL ID Act of 2005. In addition, it reinstitutes section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004, thereby providing additional regulatory flexibility and funding authorization. Also, this bill allows states to rapidly produce tamper-proof and counterfeit-resistant driver licenses and protect privacy and civil liberties by providing guidance to stakeholders through negotiated rulemaking to achieve improved 21st century licenses that will support national security.

## Status

Introduced on February 28, 2007, read twice, and referred to the Senate Committee on the Judiciary. No other action to date.

### **S. 2356: Coleman (Minnesota)**

This legislation amends the REAL ID Act of 2005 by establishing the Prevention of Unsafe Licensing Act. The bill prohibits a state from issuing a driver license/identification card to a person unless the state has complied with certain citizenship or lawful immigration verification requirements.

## Status

Introduced on November 14, 2007, read twice, and referred to the Senate Committee on the Judiciary. No other action to date.

### **S. 2711: Sessions (Alabama)**

The Secretary of Homeland Security shall establish the State Records Improvement Grant Program. Under this program, the Secretary may award grants to states that display the intent to advance the purposes of this Act and to issue, or implement plans to issue, driver licenses and identification cards that comply with the State license requirements in accordance with the REAL ID Act of 2005. This legislation currently appropriates \$300 million for each of the fiscal years 2009 through 2013 to carry out the provisions of the bill.

## Status

Introduced on March 5, 2008, read twice on March 6, 2008, and placed on Senate Legislative Calendar under General Orders. No other action to date.

### **S. 2718: Barrasso (Wyoming)**

If passed, this bill would withhold 10 percent of the funding for highway construction and maintenance to states that issue driver licenses to individuals without verifying the legal status of those individuals. However, this bill will not affect any State requirements under the REAL ID Act.

## Status

Introduced on March 5, 2008, read twice on March 6, 2008, and placed on Senate Legislative Calendar under General Orders. No other action to date.

### **H.R. 1117: Allen (Maine)**

This legislation repeals Title II of the REAL ID Act of 2005. In addition, it reinstitutes section 7212 of the Intelligence Reform and Terrorism Prevention Act of 2004, thereby providing additional regulatory flexibility and funding authorization. Also, this bill allows states to rapidly produce tamper-proof and counterfeit-resistant driver licenses and protect privacy and civil liberties by providing guidance to stakeholders through negotiated rulemaking to achieve improved 21st century licenses that will support national security.

### Status

Introduced on February 16, 2007, the bill was referred to the House Subcommittee on Government Management, Organization and Procurement on March 23, 2007. No other action to date.

### **H.R.1314: Blackburn (Tennessee)**

This bill creates the Photo Identification Security Act, and restricts individual identification documents that may be accepted by the federal government or by financial institutions to: (1) a Social Security card accompanied by a photo identification card issued by the federal or a state government; (2) a driver license or identification card issued by a state that is in compliance with the REAL ID Act of 2005; (3) a passport issued by the United States or a foreign government; and (4) a photo identification card issued by the Secretary of Homeland Security (acting through the Director of the United States Citizenship and Immigration Services).

### Status

Introduced March 5, 2007, and referred to the House Subcommittee on Government Management, Organization and Procurement on March 27, 2007. No other action to date.

### **H.R.1684: Thompson (Massachusetts)**

This legislation authorizes grant appropriations of \$120 million for fiscal 2008; \$100 million for fiscal year 2009; and \$80 million for fiscal year 2010, to develop databases, and technology and security plans as required by the REAL ID Act. The bill also sets priorities for awarding grants; prohibits the Secretary from using federal monies designated for any other DHS grant program in order to fund expenses related to the REAL ID Act; and finds that the federal government should set standards for the issuance of birth certificates and sources of identification, such as driver licenses.

### Status

Introduced March 26, 2007, referred to Senate Committee on May 11, 2007, read twice; and referred to the Committee on Homeland Security and Governmental Affairs. No other action to date.

### **H.R.3982: Boswell (Iowa)**

This bill would prohibit the hiring, recruitment or referral of unauthorized aliens and conforms to certain documents used to establish the identity of individuals in accordance with the REAL ID Act.

### Status

Introduced October 29, 2007, and referred to House Subcommittee on Workforce Protections on January 15, 2008. No other action to date.

### **H.R.4065: Sensenbrenner (Wisconsin)**

This bill creates the Border Enforcement, Employment Verification, and Illegal Immigration Control Act. If passed, it would increase border security and conform to certain elements of the REAL ID Act.

### Status

Introduced November 1, 2007, and referred to House Subcommittee on Border, Maritime, and Global Counterterrorism on January 31, 2008. No other action to date.

### **H.R.4160: Fossella (New York)**

If states do not comply with certain requirements for the issuance of DL/IDs, this bill would allow for the withholding of federal funds.

### Status

Introduced November 13, 2007, and referred to House Subcommittee on Highways and Transit on November 14, 2007. No other action to date.

### **H.R.4176: King (New York)**

To enhance national security, this bill would restrict the access of illegal aliens to driver licenses and State-issued identification cards.

### Status

Introduced March 14, 2007, and referred to House Subcommittee on Highways and Transit on November 15, 2007. No other action to date.

### **H.R.4192: Tancredo (Colorado)**

This bill would amend the REAL ID Act by limiting the maximum period of validity for state licenses and identification documents to five (5) years instead of eight (8) years.

### Status

Introduced November 15, 2007, and referred to House Subcommittee on Border, Maritime, and Global Counterterrorism on January 31, 2008. No other action to date.

## **Federal Regulations**

### **INTRODUCTION**

The REAL ID Act was passed by Congress in 2005, as Public Law 109-13, 119 Statute 231, 302, and was codified as Title 49 U.S.C. 30301. The final regulations were published in the Federal Register on January 29, 2008.

The REAL ID Act requires states, effective May 11, 2008, to issue driver licenses and identification (DL/ID) cards using standards established by the Secretary of the Department of Homeland Security (DHS) if those documents are to be used to gain access to federal facilities, board a federally-regulated commercial aircraft, or enter nuclear power plants.

Although other states have pending legislation to support or to oppose the REAL ID Act, only fourteen states have actually passed statutes. To date, eleven states, Alaska, Arizona, Georgia, Idaho, Louisiana, Maine, Montana, New Hampshire, Oklahoma, South Carolina, and Washington, have passed statutes in opposition to the REAL ID Act; and three, Delaware, Nevada and Tennessee, have passed statutes in support.

## **Federal Funding**

Based on the language of the REAL ID Act, Section 204 clearly establishes that the Secretary of the DHS is authorized to make grants to the states in an effort to assist in the implementation of the minimum standards set forth in the REAL ID Act. The federal Office of Management and Budget has estimated the cost of the REAL ID Act to be over \$10 billion; of which \$4 billion is attributed to the states.

To address the needs of the states, DHS allocated a total of \$90 million in grant funds for the REAL ID effort. Specifically, \$40 million was made available to the states during the 2006 budget year and \$50 million in the 2008 federal budget. Due to \$10 million of the total being allocated to special projects, \$80 million remained available to states through a competitive grant process.

DHS released the grant guidelines and application procedures for the REAL ID grants on December 13, 2007. Accordingly, in conjunction with the California Department of Public Health, the Department of Motor Vehicles (DMV) submitted a \$9.7 million demonstration grant proposal to support the electronic verification of California birth and death records and to enhance privacy and security systems.



On June 20, 2008, DHS announced a \$3.2 million grant would be allocated to California. The largest grant, for \$17 million, was allocated to Missouri, to establish a “verification hub” with a common interface that states would use to verify documents that individuals use, to support state-issued DL/ID cards. In addition, four other states (Florida, Indiana, Nevada and Wisconsin) were awarded \$1.2 million each to partner with Missouri in the hub development. All 48 jurisdictions that applied for funding were awarded a portion of the total \$80 million to fund specific projects directed at enhancing the security of driver’s licenses and identification cards. (see Appendix-A).

### **Major REAL ID Act Activities by the Department of Motor Vehicles**

Since the release of the final REAL ID regulations on January 29, 2008, California has continued discussions with the U.S. Department of Homeland Security (DHS) regarding ongoing concerns with the regulations. In addition, the Department of Motor Vehicles (DMV) continues to work with other groups such as the American Association of Motor Vehicle Administrators (AAMVA) and the National Governors Association relative to mutual concerns as to the impact the REAL ID Act would have.

The following activities occurred between April 1, 2008, and June 30, 2008:

- **Assessment of the Final REAL ID Act Federal Regulations**

At the request of the Senate Committee on Budget and Fiscal Review, Subcommittee #4 Chair, Senator Michael Machado, a comprehensive assessment of the final REAL ID regulations was provided for the upcoming budget and policy committee hearings. This detailed, extensive documentation provides an update to information that was previously provided to Senator Machado in 2006, and provides an extensive analysis of the final REAL requirements. It also proved a clear perspective on the California DMV approach to the regulations in relation to our best practices in meeting the needs of California’s drivers.

Although DHS has addressed some of the issues and concerns in California’s response to the proposed regulations, there are still major concerns pertaining to: the lack of federal funding; the mandate that all DL/ID cardholders, the lack of privacy and security provisions with respect to the national electronic verification systems, raising serious concerns about the ability of other jurisdictions to ensure that the personal information of California driver license/identification cardholders will be safeguarded.

- **Expanded Name Field**

The DMV has incorporated a new process to collect and store a driver license applicant's true full name. Since transitioning to the new method, the DMV can now store up to 125 characters for each name, in contrast to the previous storage capacity of 35 characters. This new procedure provides enhanced query and data exchange capabilities, provides for a more secure issuance process, and provides law enforcement with a more reliable source to confirm the identity of individuals.

- **Workflow Analysis of Field Offices**

The DMV completed a statewide workflow analysis to identify best business practice needs consistent with the enhancement of field office services to the public. Specific objectives of the study were the minimization of wait times to customers; improvement of work processes related to the flow of customers that better meet their needs; and to increase employee efficiency. As a result of the findings of this study, three field offices (Colusa, Tracy, and Fresno) scheduled for reopening are now being reconfigured to incorporate design recommendations derived from the study.

- **Privacy and Security Enhancement Project**

The DMV employed a data security consultant to assess the current status of its privacy and security policies, procedures, and processes. Conducted in the most comprehensive manner, the assessment has assisted the Department in the development of a Privacy and Security Roadmap that will be used to meet the highest industry best practices, as well as federally recognized standards for privacy and security. After completion and implementation, Department business practices will ensure that all relevant privacy and security issues (including those related IT and REAL ID standards) have been identified and addressed, in order to provide the highest security and protection of all personal information.

## **Appendices**

1. REAL ID Demonstration Awards, by State – Appendix 1

## Appendix 1

REAL ID Demonstration	
Grant Awards	
State/Territory	Award
Alabama	\$500,000
American Samoa	\$300,000
Arizona	\$2,721,110
Arkansas	\$891,887
California	\$3,200,000
Colorado	\$1,169,678
Connecticut	\$1,901,846
Delaware	\$500,000
District of Columbia	\$500,000
Florida	\$3,750,926 (\$1.2M to partner with the lead hub State for pilot implementation and verification testing)
Georgia	\$2,478,043
Guam	\$300,000
Hawaii	\$470,000
Illinois	\$2,307,808
Indiana	\$3,149,637 (\$1.2M to partner with the lead hub State for pilot implementation and verification testing)
Iowa	\$1,211,326
Kansas	\$925,026
Kentucky	\$1,003,087
Maine	\$1,023,911
Maryland	\$1,138,000
Massachusetts	\$1,609,635
Michigan	\$2,495,000
Minnesota	\$694,060
Mississippi	\$718,424
Missouri	\$17,548,293 (\$17M to Missouri as the lead State for verification hub requirements and development)
Nebraska	\$687,188
Nevada	\$2,893,607 (\$1.2M to partner with the lead hub State for pilot implementation and verification testing)
New Jersey	\$1,287,489
New Mexico	\$500,000
New York	\$2,255,748
North Carolina	\$1,799,000

## THE REAL ID ACT

Department of Motor Vehicles

North Dakota	\$500,000
Ohio	\$1,200,000
Oregon	\$1,169,678
Pennsylvania	\$2,042,800
Puerto Rico	\$300,000
Rhode Island	\$500,000
South Carolina	\$500,000
South Dakota	\$300,000
Tennessee	\$694,060
Texas	\$3,200,000
U.S. Virgin Islands	\$300,000
Utah	\$1,006,418
Vermont	\$500,000
Virginia	\$2,660,252
West Virginia	\$500,000
Wisconsin	\$2,071,063 (\$1.2M to partner with the lead hub State for pilot implementation and verification testing)
Wyoming	\$500,000
<b>Total</b>	<b>\$79,875,000</b>